



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

FACT SHEET FOR S.B. 1268

labor organizations; fiduciary guidelines; disclosure

Purpose

Outlines requirements for a labor organization that collects benefit monies or union dues (labor organization) relating to financial disclosures, benefit choice and benefit contributions.

Background

A person may not be denied the opportunity to obtain or retain employment because of non-membership in a labor organization. A governing entity, corporation, individual or association may not enter into an agreement excluding a person from employment because of non-membership in a labor organization ([Ariz. Const. art. 25](#); [A.R.S. § 23-1302](#)). A hiring or employment contract or agreement is contrary to public policy and void if either party undertakes or promises: 1) not to join, become or remain a member of a labor organization or employer organization; or 2) that the party will withdraw from the employment relation if the party joins, becomes or remains a member of a labor organization or employer organization ([A.R.S. § 23-1341](#)).

The federal Labor-Management Reporting and Disclosure Act requires labor organizations to annually file a financial report signed by its president and treasurer with the U.S. Secretary of Labor disclosing for the preceding fiscal year: 1) assets and liabilities and the beginning and end of the fiscal year; 2) any receipts and sources thereof; 3) salary, allowances and other direct or indirect disbursement to each officer and employee receiving more than \$10,000 from the labor organization and any affiliated organization; 4) loans made to a business enterprise; 5) loans greater than \$250 mad to an officer, employee or member; and 6) other disbursements. A labor organization must make the required information available to all members ([29 U.S.C. § 431](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Subjects a labor organization, to the extent allowed under federal law, to similar fiduciary guidelines as required by employers or third-party administrators providing benefits to employees in Arizona including outlined requirements.
2. Requires a labor organization benefit plan to use generally accepted accounting principles to account for benefit funds in a similar method as required by an employer benefit plan.
3. Authorizes a labor organization member (member) to obtain health and welfare, pension, vacation or sick benefits of the member's choosing instead of benefits offered by the labor organization and grants the member ultimate discretion in choosing benefits.

4. Allows a member's employer, if the member chooses to obtain benefits from the employer, to withhold payment to the labor organization for the hourly fringe charge for the benefits.
5. Requires an employer, if the member chooses to obtain benefits from a person outside the employment relationship, to:
 - a) withhold payment to the labor organization for the particular fringe benefit category; and
 - b) forward the monies to the employee or benefit provider, as agreed to by the employee and employer.
6. Requires a union that receives fringe benefit contributions in excess of the costs the union incurs for that fringe benefit to, within 75 days after the end of the year:
 - a) refund the amount to the employee; or
 - b) deposit the amount into a defined contribution plan on the employee's behalf.
7. Prohibits, without the individual's affirmative written consent:
 - a) an individual being considered a labor organization member; and
 - b) withholding of union dues or benefits from the individual or the individual's employer.
8. Prohibits a labor organization from accepting dues or benefit contributions for employees that have not voluntarily joined the organization.
9. Prohibits an employee or an employer from paying a penalty or fee related to the employee's abstention or resignation from labor organization membership.
10. Grants any Arizona resident standing in a court against the labor organization for monies paid to the organization on behalf of the resident without the resident's consent.
11. Requires a labor organization to annually disclose to its members and members' employers in one statement:
 - a) the labor organization's total revenue and expenditures for each benefit category within Arizona and on a national level;
 - b) the price of each unit collected, as an hourly rate for each benefit category based on employee classification in a manner allowing a member to determine the amount of benefit monies collected on the member's behalf;
 - c) the cost of each benefit provided to the member, as a monthly premium cost for insurance products or as another formula for noninsurance benefits, and in sufficient detail to allow a member to determine the true cost of the benefit provided on the member's behalf;
 - d) a list of payments the labor organization makes for each benefit category during the year; and
 - e) a reconciliation and explanation of any differences between the organization's total revenue and expenditures and the list of payments made each year for each benefit category.
12. Requires a labor organization officer to sign the annual disclosure under penalty of perjury.
13. Requires the disclosure to be provided by 60 days after the end of the labor organization's fiscal year or, if different, the fiscal year of the specific benefit trust funds:
 - a) via e-mail or mail to each member and member's employer; or
 - b) by posting on the labor organization's public website.

14. Stipulates that, if the labor organization posts the disclosure on a website, the organization must:
 - a) instruct its members how to access the disclosure; and
 - b) maintain the prior years' disclosures on the same website.
15. Applies the outlined requirements to any labor organization collecting benefit monies or union dues on behalf of an Arizona resident or employer domiciled in Arizona.
16. Excludes, from the application of the outlined requirements, employees of a political subdivision of Arizona or the federal government.
17. Defines *benefit category* to include:
 - a) health and welfare;
 - b) pension;
 - c) vacation, sick or holiday;
 - d) training; and
 - e) other.
18. Specifies that benefit categories may vary for each labor organization.
19. Contains a severability clause.
20. Becomes effective on the general effective date.

Prepared by Senate Research

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